



COUNTY OF LOS ANGELES
OFFICE OF THE COUNTY COUNSEL

648 KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012-2713

TELEPHONE
(213) 974-7973
FACSIMILE
(213) 633-1915
TDD
(213) 633-0901

MARY C. WICKHAM
County Counsel

July 19, 2016

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Re: Amendment to Title 2 – Administration of the Los Angeles County Code, Disabled Veteran Business Enterprise Preference Program


Dear Supervisors:

As directed by the Board of Supervisors at its meeting of July 12, 2016, enclosed please find an ordinance amending Title 2 – Administration of the Los Angeles County Code, relating to the Disabled Veteran Business Enterprise Preference Program. The ordinance amends and clarifies the administration and certification of the Disabled Veteran Business Enterprise Preference Program, including increasing the preference from eight percent (8%) to fifteen percent (15%).


The analysis and ordinance may be presented to the Board of Supervisors for consideration.

Very truly yours,

MARY C. WICKHAM
County Counsel

By 
PATRICE J. SALSEDA
Principal Deputy County Counsel
Contracts Division

APPROVED AND RELEASED:


LESTER J. TOLNAI
Chief Deputy


PJS:cd
Enclosure

c: Brian J. Stiger, Director, Consumer Affairs

ANALYSIS

This ordinance amends Title 2 – Administration of the Los Angeles County Code, relating to the Disabled Veteran Business Enterprise Preference Program by amending and clarifying the administration and certification of the Disabled Veteran Business Enterprise Preference Program, including increasing the preference from eight percent (8%) to fifteen percent (15%).

MARY C. WICKHAM
County Counsel

By 
PATRICE J. SALSEDA
Principal Deputy County Counsel
Contracts Division

PJS:cd

Requested	02/19/16
Revised	07/15/16

ORDINANCE NO. _____

An ordinance amending Title 2 - Administration of the Los Angeles County Code, relating to the Disabled Veteran Business Enterprise Preference Program.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 3. Section 2.211.030 is hereby amended to read as follows:

2.211.030 Definitions.

For the purpose of this eChapter, the following words and phrases are defined and shall be construed as having the following meanings:

A. "County" shall mean the County of Los Angeles, or any public entities for which the Board of Supervisors is the governing body;

B. "Department" shall mean the County department, entity, or organization responsible for the solicitation; ~~and~~

C. "Disabled Veteran Business Enterprise" or "DVBE" shall mean:

1. A business which is certified by the State of California as a DVBE;
or

2. A business which is verified as a service-disabled veteran-owned small business by the Veterans Administration.

3. A business certified as DVBE with other certifying agencies pursuant to the Department of Consumer and Business Affairs' ("DCBA") inclusion policy that meets the criteria set forth by the agencies in subsection C(1) or C(2), above.

D. "Solicitation" shall mean the County's process to obtain bids or proposals for the purchase of goods and services.

SECTION 4. Section 2.211.040 is hereby amended to read as follows:

2.211.040 Administration.

~~The Internal Services Department ("ISD")~~DCBA with the assistance of County Counsel and the Internal Services Department ("ISD"), shall issue interpretations of the provisions of this Chapter, and ~~ISD~~ shall issue written instructions on the implementation and ongoing administration of this Chapter. Such instructions may provide for the delegation of functions to other departments.

SECTION 5. Section 2.211.050 is hereby amended to read as follows:

2.211.050 Certification.

~~Each department conducting a solicitation is responsible for verifying that a contractor is a DVBE as defined in this chapter.~~DCBA shall be responsible for verifying that a DVBE is currently certified by the State of California, by the U.S. Department of Veteran Affairs, or as determined by DCBA's inclusion policy that meets the criteria set forth by the agencies in subsection C(1) or C(2) of section 2.211.030 of this chapter. DCBA shall certify DVBE and maintain records of the certified businesses and their participation in County purchasing and contracting.

SECTION 6. Section 2.211.060 is hereby amended to read as follows:

2.211.060 Responsibilities and ~~s~~Standards.

A. ~~In order to~~To facilitate the participation of DVBE in County purchases of goods and services, County departments shall provide for ~~disabled veteran business enterprise~~DVBE preference in their solicitations purchase of goods and services where responsibility and quality are equal.

~~B. In order for a DVBE to be eligible to claim the preferences, the business must request the preference in the solicitation response.~~

~~CB.~~ In solicitations where an award is to be made to the lowest responsible bidder meeting specifications, subject to subsections ~~E and F below,~~ D through G, the preference to a Disabled Veteran Business Enterprise DVBE shall be ~~eight~~fifteen percent (815%) of the lowest responsible bidder meeting specifications, determined according to the implementation instructions issued by ~~ISDDCBA~~.

~~DC.~~ In solicitations where an award is to be made to the highest scored proposer based on evaluation factors in addition to cost/price, subject to subsections ~~E and F below,~~ D through G, the preference to the disabled veteran business enterprise DVBE shall be ~~eight~~fifteen percent (815%) of the cost/price component of the evaluation method, determined according to the implementation instructions issued by ~~ISDDCBA~~.

~~ED.~~ The disabled veteran business enterprise DVBE preference under subsections ~~C and D, above,~~ B and C of this section shall not exceed one-hundred and fifty thousand dollars (\$150,000) for any one solicitation and award determination.

E. In order for a DVBE to be eligible to claim the preference, the business must request the preference in the solicitation response.

F. When an applicable statute limits the preference to the DVBE preference at an amount less than eightfifteen percent (815%), the applicable statute shall determine the preference amount.

~~F~~G. In no case shall the ~~d~~Disabled ~~v~~Veteran ~~b~~Business ~~e~~Enterprise Preference program price or scoring preference be combined with any other County preference program to exceed ~~eight~~fifteen percent (~~8~~15%) of the lowest responsible bid meeting specifications.

SECTION 7. Section 2.211.070 is hereby amended to read as follows:

2.211.070 Exclusions.

The disabled-veteran-business-enterprise-preference~~DVBE~~ preference shall not be given for the following County purchases:

- A. National contracts established for the purchase of equipment and supplies for and by the National Association of Counties, U.S. Communities Government Purchasing Alliance, or any similar or related group purchasing organization;
- B. A revolving fund (petty cash) purchase pursuant to the Los Angeles County Fiscal ~~m~~Manual, ~~s~~Section 4.404.6.0 or a successor provision;
- C. A purchase card purchase pursuant to the Los Angeles County Purchasing Policy Manual, ~~s~~Section P-2810 or a successor provision;
- D. A non-agreement purchase with a value of less than five thousand dollars (\$5,000) pursuant to the Los Angeles County Purchasing Policy Manual, ~~s~~Section A-0300 or a successor provision;
- E. A contract, funded in whole or in part by the federal government, to the extent of any conflict between the requirements imposed by the federal government, including those relating to participation in a contract by a minority or women business enterprise, as a condition of the receipt of the federal funds; and

F. A contract for which federal, ~~State~~, or local laws limit or prohibit application of a ~~disabled veteran business enterprise~~DVBE preference.

SECTION 8. Section 2.211.080 is hereby amended to read as follows:

2.211.080 Violations and Sanctions.

A. The information furnished by each solicitation respondent requesting a ~~disabled veteran business enterprise~~DVBE preference shall be under penalty of perjury.

B. No person or business shall knowingly and with intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a ~~disabled veteran business enterprise~~DVBE for the purpose of this Chapter.

C. No person or business shall willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a County official or employee for the purpose of influencing the certification or denial of certification of any entity as a ~~disabled veteran business enterprise~~DVBE.

D. A business which has obtained County certification as a ~~disabled veteran business enterprise~~DVBE by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew, or should have known, the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded a contract to which it would not otherwise have been entitled, shall:

1. Pay to the County any difference between the contract amount and what the County's costs would have been if the contract had been properly awarded;

2. In addition to paying the amount described in subdivision 1 of subsection D, of this ~~s~~Section, be assessed a penalty in an amount of not more than ten percent (10%) of the amount of the contract involved; and

3. Be subject to the provisions of Chapter 2.202 of the County Code (Determinations of Contractor Non-responsibility and Contractor Debarment).

E. The above penalties shall also apply to any business that has previously obtained proper certification, however, as result of a change in their status would no longer be eligible for certification, and fails to notify the ~~s~~State and ~~County~~DCBA of this information prior to responding to a solicitation or accepting a contract award.

SECTION 9. Section 2.211.090 is hereby amended to read as follows:

2.211.090 Review of Program eEligibility of ~~DVBE~~ certification.

~~The Department of Consumer and Business Affairs will~~DCBA is authorized to investigate any valid complaint of eligibility received by the County concerning the Disable Veteran Business Enterprise Preference Program.

SECTION 10. Section 2.211.100 is hereby amended to read as follows:

2.211.100 Applicability.

This Chapter shall apply to all solicitations issued ~~ninetysixty~~ (960) days after the effective date of the ~~e~~Ordinance codified in this ~~e~~Chapter.

[2211010PSCC]